CIVIL SOCIETY COMMUNIQUE TO STATE DELEGATES AT THE REVIEW CONFERENCE OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT HELD IN KAMPALA FROM MAY 31 – JUNE 11, 2010.

Background

We, members of Civil Society Organizations who have gathered here in Kampala, Uganda, for the International Symposium on the Stocktaking Process convened at the Hotel Africana, Kampala on 27 – 28 May 2010 by the Human Rights Network of Uganda (HURINET-U), the Uganda Coalition on the International Criminal Court (UCICC), and the International Commission of Jurists (ICJ-Africa Program), in an effort to enhance the participation of civil society in the upcoming Review Conference in Kampala from May 31 - June 11, 2010;

Recognising the important role played by civil society in the adoption of the Rome Statute and its entry into force:

Acknowledging that the International Criminal Court (ICC) is an important mechanism for ending impunity of grave crimes of international concern, which include war crimes, crimes against humanity and genocide:

Affirming State Parties obligations to hold perpetrators of international crimes accountable and to provide victims with a right to remedy and redress:

Recalling that the jurisdiction of the ICC is complementary to national jurisdiction under the Rome Statute and that State Parties therefore have the primary responsibility to investigate and prosecute crimes of international concern:

Reaffirming that State Parties have the responsibility to create environments within which the ICC can carry out independent, impartial investigations and respond effectively to the needs of victims and affected communities, particularly vulnerable women and children:

Conscious of the need to strengthen the capacity and willingness of national judicial systems to fulfill their primary responsibility to investigate and prosecute international crimes:

Mindful that victims and affected communities are the ultimate beneficiaries of both peace and justice:

Determined to continue working towards an independent and impartial International Criminal Court:

Welcomes the Review Conference of the Rome Statute and the issues to be discussed, including stocktaking on issues of complementarity, cooperation, the impact of the Rome Statute system on victims and affected communities, peace and justice; and the definition of the crime of aggression:

We therefore respectfully make the following recommendations:

On the Impact of the Rome Statute on Victims and Affected Communities, States should:

- Allocate further resources to the ICC's Outreach Unit to enable the court to provide effective justice to victims and affected communities.
- Undertake national information campaigns to complement the ICC outreach activities.
- Incorporate victims' provisions, including those related to reparations (all types), as well as those related to protection and support, participation, information, and legal representation, into national laws.
- Ensure that those provisions are implemented fully and that the necessary resources are allocated for that purpose. For example, victims' offices, victims and witnesses units, and national trust funds should be created. Victims and affected communities should be fully involved in these processes.
- Ensure that Victims are treated with respect, have their right to dignity recognised, and have their views and concerns heard, in the various processes they are involved in. Particular attention should be paid to ensure that women, children and victims of gender- based violence, minorities, and victims with disabilities, among others are also meaningfully involved.
- Enable their national judiciaries to try perpetrators of serious crimes not covered by the ICC jurisdiction (for example, those committed before the entry into force of the Rome Statute).
- Provide political and financial support for the ICC to implement a comprehensive policy on intermediaries between victims and the ICC.
- Support civil society groups especially those working closely with victims and affected communities, including protection from intimidation and threats from governments and non-state actors.
- Make generous and regular contributions to the Trust Fund for Victims, and encourage others with the capacity to do so to also contribute.
- Fully implement cooperation requests for tracing, freezing, and seizing of assets belonging to alleged perpetrators.
- Ensure that best practices are shared among States which have already developed capacities, especially on reparations and protection programmes, among other relevant areas.

On the Impact of the Court on Peace and Justice, States should:

- Advance and enhance mechanisms to promote peace building and conflict prevention, in which the ICC can play a part, and support the emerging norm of the Responsibility to Protect (RtoP) as a means of focusing these efforts.
- Take into account the historical, political, and social context of crimes when making decisions on the relationship between peace and justice in any given situation and on what kind of justice will be relevant in order to simultaneously advance peace and justice.
- Take appropriate steps to manage interactions between peace and justice.
- Consistently uphold their obligations as States Parties to the Rome Statute and their obligation to be accountable to their own citizens, and to consult them fully before instituting investigations.
- Support the ICC in bringing greater clarity and transparency to the process employed in making prosecutorial decisions, including the preliminary analysis, the determination of the gravity of crimes, and the selection of charges in relation to the interests of victims.
- Support the ICC in developing a consistent policy on how to promote victims' participation and respond to victims' interests and expectations.
- States should support the ICC to conduct effective, responsive, and responsible outreach initiatives at the earliest possible stages of investigations.

On State Cooperation, States should:

- Pledge at the Review Conference and in future sessions of the Assembly of State Parties (ASP) to adopt implementing legislation within a particular time frame that would facilitate cooperation with the ICC and to enter into framework agreements on important areas of assistance identified by the Court.
- Commit to advance the establishment of an ICC Liaison Office in Addis Ababa by actively engaging with the African Union Commission on this issue.
- Given the importance of cooperation and its cross-cutting nature, support the establishment of an ASP working group on cooperation to support the mandate of the Facilitator of the Bureau on Cooperation, promote adequate cooperation, and exchange best practices and lessons learned.
- In line with the Bureau Report on Cooperation from the 6th Session of the ASP, take steps to facilitate cooperation and assistance at the national level, including appointing ICC focal points within governments.
- Commit to assist the ICC in executing arrest warrants, including exploring means to facilitate arrest in states that lack the capacity to ensure the execution of arrest warrants.
- Maximize the stocktaking session on cooperation through candid reflection of challenges and sharing best practices and lessons learned with a view of overcoming obstacles.

On Complementarity, we respectfully recommend that:

- In order to give effect to the complementarity principle, all State Parties should urgently adopt ICC implementing legislation.
- In order to address the lack of capacity, development partners should ensure that part of their development aid to national legal systems is focused on strengthening national prosecutions of war crimes, crimes against humanity and genocide.
- States during the Review Conference and future forums of the ASP should address lack of political will to prosecute grave crimes at the national level
- States should in appropriate circumstances consider the establishment of effective mechanisms within national legal systems as a way to temporarily reinforce them, in compliance with the complementarity principle.
- The ICC should submit an annual report to the ASP on its activities to encourage national investigation and prosecution efforts.
- The ASP should establish mechanisms to promote complementarity in practice.
- The ICC, civil society, and states should continue their efforts to raise awareness among the legal profession at the national level about international criminal law and accountability for serious crimes so that they can contribute to implementing the complementarity principle.

On Pledges, we recommend that:

The ASP should make the pledging initiative a permanent and continuous one, and actively encourage States to identify and announce pledges at sessions of the Assembly of States Parties that would advance the work of the Court and the Rome Statute.

ORGANISATION

1. Action For Development (ACFODE)
2. Advocates for Public International Law Uganda (APILU)
3. Advocates Sans Frontiers (ASF)
4. Africa Centre for Treatment and Rehabilitation of Torture Victims (ACTV)
5. Africa Development Peace Initiative (ADPI)
6. Africa Freedom of Information centre (AFIC)
7. Africa Youth Initiative Network (AYINET)
8. African Association for the Defence of Human Rights (ASADHO)
9. African Youth Peace Initiatives (AYPI)
10. Centre for the Study of Violence and Reconciliation (CSVR)
11. Christ Central Christian Ministries (CCMW)
12. Civil Resource Development and Documentation Centre (CIRDDOC)
13. Coalition for the International Criminal Court (CICC)
14. Life Concern
15. Council of Friends for Development and Peace (CADEP)
16. East Africa Law Society (EALS)
17. East and Horn of Africa Human Rights Defenders (EHAHRD)
18. Federation of Women Lawyers (FIDA-U)
19. Foundation for Human Rights Initiative (FHRI)
20. Foundation for Rural Advancement (FURA)
21. Good Hope Foundation for Rural Development (GHFRD)
22. Human Rights First Rwanda Association
23. Human Rights Network for Journalists
24. Human Rights Network Uganda (HURINET-U)
25. IFSW-Africa
26. Institute for Security Studies (ISS)
27. International Commission of Jurists
28. International Federation for Human Rights (FIDH)
29. Kumi Human Rights Initiative (KHRI)
30. LIPADH
31. Network Movement for Democracy and Human Rights (NMDHR)
32. Nigeria Coalition for the International Criminal Court (NCICC)
33. Northern Uganda Transitional Justice Working Group (NUTJWG)
34. Peace for Nature (PFN)
35. Peace Youth Association
36. People for Peace Defence of Rights Uganda
37. REDRESS
38. Refugee Law Project (RLP)
39. Save Darfur Coalition
40. Soroti Development NGO Network (SODANN)
41. Stichting Pearl of Africa-Netherlands
42. Uganda Coalition for the International Criminal Court (UCICC)
43. Uganda Joint Christian Council (UJCC)
44. Uganda Law Society (ULS)
45. Uganda Law Students Society (ULSSO)
46. Uganda Victims Foundation (UVF)
47. Uganda Women's Network (UWONET)
48. West Africa Bar Association (WABA)
49. World Vision Uganda
50. Human Rights Concern (HURICO)
51. Development Foundation for Rural Areas (DEFORA)